IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 05.07.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.436 of 2006

S.Parimala ... Petitioner

Vs.

1. The State of Tamil Nadu,
rep. by the the Secretary,
Government of Tamil Nadu,
Prohibition and Excise Department,
Fort St. George, Chennai-9.

2.The Commissioner of Police,
Greater Chennai,
Egmore, Chennai-600 008. .. Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records of the second respondent in connection with the Memo No.77/BDFGISV/2006 dated 31.03.2006 and quash the same and thereby direct the respondents to produce the petitioner's husband viz., Pappa @ Poongavanam, aged 25 (detenu) now confined in Central Prison, Chennai before this Court and set him at liberty.

For Petitioner : Mr.Abudhu Kumar Rajarathinam
for M/s.K.Rajan & Thanikaivasan
For Respondents : Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

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O R D E R

(Order of the Court was made by P.SATHASIVAM,J.)

The petitioner, who is the wife of the detenu by name Pappa @ Poongavanam, who is detained as a ''Bootlegger" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 31.03.2006, challenges

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the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel appearing for the petitioner, by drawing our attention to para 3 of the grounds of detention, has contended that when the detaining authority has concluded that he satisfied that the detenu is a Bootlegger habitually transporting and also found selling I.D. Arrack mixed with the poisonous substance as against the provisions contemplated under the Tamil Nad Prohibition Act 1937, in the absence of any materials for selling I.D. Arrack, the ultimate conclusion and detained him as "Bootlegger" under Act 14 of 1982, cannot be sustained.

4. In the light of the said contention, we have verified the relevant materials. It is seen that on the date and time, viz., 02.03.2006 at about 11 hours, the police party chased and apprehended one Pappa Poongavanam(Detenu herein) and he has admitted about transporting I.D. Arrack in three lorry tubes in a motorcycle. Further based on the available materials, the detenu was charged under Section 4(1)(aaa) read with 4(1)(A) of the TNP Act in Crime No.110 of 2006 of PEW Poonamallee Unit. In such circumstances, when the materials are available only in respect of transporation, we are of the view that the conclusion arrived at by the detaining authority that the detenu was also "found selling I.D. Arrack" has no merit to substantiate the same. In such circumstances, the impugned detention order is liable to be quashed on the ground of non application of mind and accordingly, the same is quashed.

5. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

raa

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To

1. The Secretary to Government, State of Tamil Nadu, Prohibition and Excise Department, Fort St. George, Chennai-600 009.

2.The The Commissioner of Police, Greater Chennai, Commissioner office, Egmore, Chennai-600 008.

3. The Superintendent, Central Prison, Chennai.
(In duplicate for communication to detenu)

4. The Joint Secretary to Government, Public (Law and Order) Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

+1cc to Mr.K.Rajan, Advocate Sr 28633

NG (CO)
km/11.7.

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